

# **EXHIBIT 272**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

DONNA CURLING, ET AL.,	)	
PLAINTIFFS,	)	
	)	DOCKET NUMBER
,	)	
-v-	)	1:17-cv-2989-AT
	)	
BRAD RAFFENSPERGER, ET AL	)	
DEFENDANTS.	)	
	)	

Transcript of telephone discovery conference  
before the Honorable Amy Totenberg,  
united states district senior judge  
April 7th, 2022  
3:00 p.m.

Proceedings recorded by mechanical stenography,  
transcript produced by computer.

Melissa A. Brock, CCR, RPR, RMR  
Federal Official Court Reporter  
75 Ted Turner Drive, SW, Suite 1949-B  
Atlanta, Georgia 30303-3309

1       We now have it and it's going to be an important part of  
2 discovery that will bear on summary judgment. In part, your  
3 Honor, because we do think it bears on the issue of standing  
4 and entry. It certainly bears on merits. Because we are  
5 talking about potentially way beyond a vulnerability. This  
6 would be an actual potential compromise of the system.

7       And, your Honor, to the question of whether a  
8 vulnerability is enough, we anticipate their argument as  
9 Secretary Raffensberger himself has said publicly is  
10 vulnerability is not a big deal because we have all these  
11 protected measures in place to make sure the people don't get  
12 access to the system.

13       They criticized Dr. Holderman for saying he had time with  
14 voting equipment that someone would never have in the real  
15 world. Well, if this report is true, then there are  
16 individuals who've had actually much greater access than  
17 Dr. Holderman because Dr. Holderman did not get access to an  
18 EMS server, and they've had it for a very long time. So that  
19 certainly is going to bear on the core issues that we expect  
20 to address in summary judgment, your Honor.

21       MR. TYSON: Your Honor, this is Bryan Tyson. If I could  
22 just respond briefly on the Coffee County issue, because I  
23 think this is a very important allegation that is being made.

24       Now what we have right now is an election director in  
25 Coffee County who changed the password on the EMS, master

1 password, and then left her position of employment. The new  
2 staff couldn't access that server, and so just like the  
3 Secretary does when any -- there's any issue with a piece of  
4 equipment, the Secretary replaced the server with a new EMS  
5 and has the Coffee County EMS with the password that nobody  
6 knows at this point.

7       There was no indication or allegation, as we understand  
8 it, that there was any sort of compromise or breach of that  
9 system. The first indication was this phone call that was  
10 placed from Mr. Sterling in his deposition. It wasn't  
11 provided to us until after Mr. Sterling's deposition in its  
12 completeness between Mr. Hall and Ms. Marks.

13       Mr. Hall is somebody who testified to the Georgia State  
14 Senate Committee during the hearing for Mr. Giuliani also  
15 testified to that committee. And so in terms of the  
16 categorization of this as a credible allegation of someone  
17 accessing the system, as far as we know, that is the only  
18 basis for this claim that someone has accessed the Coffee  
19 County EMS.

20       As soon as we learned -- as soon as the Secretary learned  
21 that was the allegation being made, the Secretary has opened  
22 an investigation into the handling of that EMS server, and  
23 that investigation is ongoing, but I don't want to give more  
24 credence to things that there's something that the State is  
25 hiding in terms of access to this server. It was a

1 non-functioning piece of equipment that couldn't be accessed  
2 because of a password change, and a phone call from someone  
3 who testified that the Georgia State Senate Committee, along  
4 with Mr. Giuliani is the only basis for an allegation that  
5 there had been some breach or access to the system.

6 So at this point, we don't know more than that, but I  
7 don't want to let that sit out there as if there is some issue  
8 that is being covered up by the State on this point.

9 I think this, again, emphasizes that -- the point of  
10 addressing the issues in this case was to addressing number 1,  
11 the generalized grievance of the plaintiffs here. But  
12 number 2, this is not just an opportunity for the plaintiffs  
13 to conduct a wide-ranging audit of the Georgia election system  
14 if they can't show a valid claim.

15 And so, again, the plaintiffs have had every opportunity.  
16 They've DRES for years now and have not presented any evidence  
17 of malware. They have had access to the Dominion equipment  
18 and you have Dr. Holderman's report on that. You know what  
19 their allegations are there.

20 So anyway, we filed the call, your Honor, just for the  
21 completeness of the record. It was too large to file on the  
22 docket as an audio file. We filed that this afternoon, just  
23 so you'd have that call as well. You can listen to that.

24 THE COURT: All right.

25 MR. TYSON: I want to make sure that was clear.

1 THE COURT: All right, sir. So let me turn the  
2 conversation around a little bit to plaintiffs' counsel.  
3 If -- I took a -- went back to my original understanding of  
4 what we were doing here in my order, in my written orders. It  
5 was to give you an opportunity to address the standing, but  
6 also to provide some record evidence to support your position.  
7 Because, otherwise, we just would be as if we were handling  
8 the question of standing on the basis of a mere complaint, and  
9 clearly the case has gone beyond simply having a mere  
10 complaint.

11 So what would be -- without going into a full-scale  
12 merits discussion, what would be, from your perspective, the  
13 kind of sine qua non for having some evidence in the record,  
14 without having a full merits blowout presentation?

15 MR. CROSS: Your honor, this is Davis Cross. I guess I'm  
16 completely through and I make sure I answer the question.

17 Are you talking where summary judgment is focused on  
18 standing or are you talking more broadly where it gets into  
19 the facts?

20 THE COURT: I'm talking about as articulated in the  
21 original discussions we had that even allowed this to move  
22 forward when the State wanted to move for standing, shortly --  
23 again, in connection with the '20 election and thereafter, and  
24 you all vigorously basically opposed having just a -- solely  
25 another standing round of briefing. And, Mr. Cross, you in

1 the issue there. I disagree that it's an unusual circumstance  
2 to take possession of an EMS.

3 The Secretary's office was involved in the Center for  
4 Election Systems in the administration of that equipment on a  
5 regular basis. But I think that at the end of the day, what  
6 we have is the call from Mr. Hall as the sole basis for this  
7 concern that there was some sort of compromise of the system,  
8 an ongoing investigation. And if you need an affidavit to  
9 that affect or something along that line, I think we could  
10 provide that, but I don't think there's a need to go through  
11 an additional 30(b)6 witness on those topics along the way  
12 there.

13 And then for the issues Mr. McGuire issued there, I think  
14 that overall, I mean, I think we disagree about the legal  
15 effect of, for example, the Georgia Constitution secret ballot  
16 rights. But at the end of the day, what the voters are going  
17 to be able to show is a generalized grievance that's not  
18 particularized to them. And so I think there's not a whole  
19 lot more to say on that topic. You are familiar with that.

20 But with that, Mr. Miller, is there anything else I  
21 missed on those issues?

22 MR. MILLER: No.

23 Your Honor, this is Carey Miller. I just -- with respect  
24 to the investigative files, I would note the two things:  
25 First of all, the State does not believe this was ever

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I do hereby certify that the foregoing pages are a true and correct transcript of the proceedings taken down by me in the case aforesaid.

This, the 12th day of April, 2022.

/s/Melissa A. Brock  
Melissa Brock, CCR, RMR, RPR  
Official Court Reporter